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UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 06-00094 JMS
)	CR. NO. 05-00206-01 JMS
Plaintiff,)	
)	PRELIMINARY ORDER OF
vs.)	FORFEITURE
)	
AUDWIN AIWOHI,)	
)	
Defendant.)	
)	

PRELIMINARY ORDER OF FORFEITURE

1. As a result of the guilty plea on Count 1 of the Information filed in Cr. No. 06-00094 JMS, for which the government sought forfeiture pursuant to 18 U.S.C. § 982(a)(1), Defendant Audwin Aiwohi shall forfeit to the United States all property, real or personal, involved in such offense, or any property traceable to such property.

EXHIBIT "A"

2. Based upon his plea agreement, Defendant admitted that the following properties were subject to forfeiture pursuant to 18 U.S.C. § 982(a)(1), as properties, real or personal, involved in Count 1 of the Information, or as property traceable to such property:

- (a) All of the certain parcel of land located at 16-2095 41st Street, Keaau, Hawaii. The parcel is further identified as the parcel corresponding to the Hawaii Tax Map Key number 3-1-6-074-069-0000, titled in the name of Lonesome Pine Ranch, Inc.;
- (b) All of the certain parcel of land located at 15-1855 19th Avenue, Keaau, Hawaii. The parcel is further identified as the parcel corresponding to the Hawaii Tax Map Key number 3-1-5-023-174-0000, titled in the name of Lonesome Pine Ranch, Inc.;
- (c) All of the certain parcel of land located at 18-1248 Orchid Place, Keaau, Hawaii. The parcel is further identified as the parcel corresponding to the Hawaii Tax Map Key number 3-1-8-064-051-0000, titled in the name of Lonesome Pine Ranch, Inc.;
- (d) All of the certain parcel of land located at 16-2077 45th Street, Keaau, Hawaii. The parcel is further identified as the parcel corresponding to the Hawaii Tax Map Key number 3-1-6-070-039-0000, titled in the name of Lonesome Pine Ranch, Inc.;
- (e) One White 2002 Toyota Tacoma bearing Hawaii License Plate Number 781TPY and Vehicle Identification Number 5TEHN72N52Z137606, registered in the name of Danette Aiwohi;
- (f) One 1990 International Stakebed bearing Hawaii License Plate Number 718HDD and Vehicle Identification Number 1HTSAZRM1LH694450, registered in the name of Lonesome Pine Ranch, Inc.; and
- (g) One Blue 2004 Big Dog Custom Motorcycle bearing Hawaii License Plate NUMBER 476XGN and Vehicle

Identification Number 5J11GBJ114W000093,
registered in the name of Danette Aiwahi.

3. As a result of the guilty plea on Count 1 of the Indictment filed in Cr. No. 05-00206-01 JMS, for which the government sought forfeiture pursuant to 21 U.S.C. § 853(a)(1), Defendant Audwin Aiwahi shall forfeit to the United States all property constituting, or derived from, any proceeds Defendant obtained, directly or indirectly, as a result of such violation.

4. Based upon his plea agreement, Defendant admitted that the following property was subject to forfeiture pursuant to 21 U.S.C. § 853(a)(1), as property constituting, or derived from, any proceeds defendant obtained directly or indirectly, as a result of the offense charged in Count 1 of the Indictment:

\$192,523^[1] in United States currency seized
on May 12, 2005, from Defendant Audwin
Aiwohi's residence

(hereinafter referred to as the "Seized Currency").

5. After the entry of Defendant's plea agreement, it subsequently was discovered that the United States Drug Enforcement Administration ("DEA") had administratively forfeited the following assets on June 20, 2006, in related administrative forfeiture proceedings:

¹ The Indictment erroneously listed the amount of currency seized from Defendant's residence on May 12, 2005, as \$192,523.00. The amount of currency that was actually seized was \$191,573.00. Unfortunately, this inadvertent error was not promptly corrected and was repeated in the plea agreement.

- (a) The White 2002 Toyota Tacoma bearing Hawaii License Plate Number 781TPY and Vehicle Identification Number 5TEHN72N52Z137606, registered in the name of Danette Aiwohi (DEA Asset I.D. No. 05-DEA-452597);
- (b) One 1990 International Stakebed bearing Hawaii License Plate Number 718HDD and Vehicle Identification Number 1HTSAZRM1LH694450, registered in the name of Lonesome Pine Ranch, Inc. (DEA Asset I.D. No. 05-DEA-452627); and
- (c) One Blue 2004 Big Dog Custom Motorcycle bearing Hawaii License Plate NUMBER 476XGN and Vehicle Identification Number 5J11GBJ114W000093, registered in the name of Danette Aiwohi (DEA Asset I.D. No. 05-DEA-452624)

(collectively referred to as the "Forfeited Vehicles").

Accordingly, there is no need to forfeit the Forfeited Vehicles in this proceeding.

6. After the entry of Defendant's plea agreement, it subsequently was discovered that the United States Customs and Border Protection had administratively forfeited \$191,573.00 (the Seized Currency) on September 22, 2005, in a related administrative forfeiture proceedings (CBP Case No. 2005320200004401). Accordingly, there is no need to forfeit the Seized Currency in this proceeding.

7. In his plea agreement and the Forfeiture Agreement attached thereto, Defendant agreed to surrender and forfeit to the United States \$700,000.00 in United States currency (hereinafter referred to as the "Settlement Payment") in lieu of

the following four parcels of real property described in

Paragraph 2, above:

- (a) All of the certain parcel of land located at 16-2095 41st Street, Keaau, Hawaii. The parcel is further identified as the parcel corresponding to the Hawaii Tax Map Key number 3-1-6-074-069-0000, titled in the name of Lonesome Pine Ranch, Inc.;
- (b) All of the certain parcel of land located at 15-1855 19th Avenue, Keaau, Hawaii. The parcel is further identified as the parcel corresponding to the Hawaii Tax Map Key number 3-1-5-023-174-0000, titled in the name of Lonesome Pine Ranch, Inc.;
- (c) All of the certain parcel of land located at 18-1248 Orchid Place, Keaau, Hawaii. The parcel is further identified as the parcel corresponding to the Hawaii Tax Map Key number 3-1-8-064-051-0000, titled in the name of Lonesome Pine Ranch, Inc.; and
- (d) All of the certain parcel of land located at 16-2077 45th Street, Keaau, Hawaii. The parcel is further identified as the parcel corresponding to the Hawaii Tax Map Key number 3-1-6-070-039-0000, titled in the name of Lonesome Pine Ranch, Inc.

(hereinafter collectively referred to as the "Real Properties").

Defendant further agreed that the Settlement Payment would be forfeited to the United States in lieu of the Real Properties and would be treated in the same manner as the proceeds of the sale of a forfeited item, as provided by 19 U.S.C. § 1613(c).

8. Based upon the foregoing, the Court has determined that, based upon Defendant's plea agreement and the Forfeiture Agreement attached thereto, that the following property is subject to forfeiture pursuant to 18 U.S.C. § 982(a)(1), and that

the government has established the requisite nexus between such properties and the offense charged in Count 1 of the Information:

A personal money judgment in the amount of \$700,000.00 (the Settlement Payment), which is in lieu of the forfeiture of the Real Properties, as provided by 19 U.S.C. § 1913(c).

9. As all of the Forfeited Vehicles and the Seized Currency already have been administratively forfeited, and the Real Properties shall not be forfeited since Defendant is forfeiting \$700,000.00 (the Settlement Payment) in lieu of the Real Properties, this Preliminary Order of Forfeiture shall consists solely of a personal money judgment entered against Defendant in the amount of \$700,000.00 (the Settlement Payment). Thus, no third-party interests shall be affected by this Order. Under Fed. R. Crim. P. 32.2(c)(1), no ancillary proceeding is required to the extent that the forfeiture consists only of a money judgment, and consequently, the United States is not required to publish this Preliminary Order of Forfeiture.

10. Defendant hereby expressly consents to this Preliminary Order of Forfeiture becoming final as to Defendant prior to sentencing, and upon the Court's approval and entry of this Order, in accordance with Fed. R. Crim. P. 32.2(b)(3). Defendant understands and acknowledges that this Order shall be made part of Defendant's sentence and included in the judgment entered against Defendant.

11. The \$700,000.00 (the Settlement Payment) shall be forfeited to the United States in lieu of the forfeiture of the Real Properties and shall be treated in the same manner as the proceeds from the sale of a forfeited item as provided by 19 U.S.C. § 1613(c). The United States Customs and Border Protection and the Internal Revenue Service are authorized to dispose of the \$700,000.00 (the Settlement Payment) in accordance with law and the terms of the plea agreement and the Forfeiture Agreement attached thereto.

12. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

DATED: _____, at Honolulu, Hawaii.

UNITED STATES DISTRICT JUDGE

Presented by:

CHRIS A. THOMAS
Assistant U. S. Attorney

REGINALD P. MINN, ESQ.
Attorney for Defendant
AUDWIN AIWOHI

USA v. AUDWIN AIWOHI; Cr. No. 06-00094 JMS and Cr. No. 05-00206-01 JMS; "Preliminary Order of Forfeiture"